



*United States Attorney  
District of New Jersey*

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February 19, 2008

Hon. Faith S. Hochberg  
United States District Judge  
U.S. Post Office & Federal  
Courthouse Building  
Federal Square  
Newark, New Jersey 07102

Re: United States v. Frederick Schiff  
Crim. No. 06-406 (FSH)

Dear Judge Hochberg:

Pursuant to the Court's February 15, 2008 Order, the United States will submit a Supplemental Exhibit outlining the statements the Government may seek to admit at trial pursuant to Rule 801(d)(2)(E), or another provision of the Federal Rules of Evidence through oral testimony. As ordered, this Exhibit contains the names of the witnesses who may offer testimony containing co-conspirator statements.

The Government requests leave to submit the names of these witnesses to the Court in camera. The requirements of Rule 801(d)(2)(E) do not vary based on the identity of the testifying witness, and Defendant Schiff will have all the necessary information to raise a hearsay objection. In contrast, the Government will be significantly prejudiced by not only revealing its witnesses nearly one month in advance, but by outlining the specific contours of witness testimony so far before trial. These disclosures will necessarily reveal the Government's trial strategy. Accordingly, the Government requests leave to omit the column identifying witness names from its publicly filed Supplemental Exhibit.

In addition, the Government will provide, for the Court's convenience, copies of the exhibits referenced in the Supplemental Exhibit. These exhibits have previously been provided to Defendant Schiff, and contain the internal communications of BMS executives, as well as potentially sensitive information concerning the Company. To avoid any potential prejudice associated with the public filing of these exhibits before trial, the Government also requests leave to provide these materials in camera.

Respectfully submitted,

CHRISTOPHER J. CHRISTIE  
United States Attorney

/s/Paul B. Matey

By: Paul B. Matey  
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Michael Martinez  
Assistant U.S. Attorneys

cc: David M. Zornow, Esq.